FARAD CONTINUATION SHEET NO.:
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
WRIT PETITION NO.6663 OF 2004

Office Notes, Office Memoranda of coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders.

Mr.D.W.Bhosale for petitioner.
Mr.V.P.Malvankar, AGP for res.Nos.1 to 3.
Mr.Ajay Joshi for res.Nos.4 & 5.

CORAM : H.L GOKHALE &
J.H.BHATIA, JJ.

DATED : 3rd July 2006

P.C. :

1. Heard the learned Counsel for the parties. Mr.Bhosale appearing for the petitioner seeks time to file a rejoinder. Mr.Joshi appearing for res.Nos.4 and 5 opposes the request by pointing out that the petitioner is not interested in early hearing since he has an injunction in his favour which does not deserve to be continued. We cannot brush aside this objection. Respondent No.5 has filed his reply way back on 20.9.2005. Reply of the Government is filed on 14.6.2006.

Mr.Bhosale clearly knew that the matter was adjourned on 7th June 2006 for getting report of the Tahsildar. He should have filed the rejoinder in the meanwhile. Request for adjournment is, therefore, rejected.

2. The petition seeks to challenge the order dated 12th July 2004 passed by the then Minister for Food and Civil Supply and Consumer Protection, rejecting the Revision Application filed by the petitioner. The petitioner had filed this Revision Application against the decision of the Deputy Commissioner, Pune Division. By that order the kerosene licence of the petitioner has been cancelled.

3. The facts leading to this petition are as follows:-

. The petitioner’s father

was having a dealership of kerosene at the village Vakhari, Taluka Pandharpur, District Solapur. He died sometime in July 2000. Thereafter the petitioner applied for transfer of the licence to his name and the Tahsildar did recommend that the licence be transferred to his name. It so transpired that there were serious complaints by the citizens against the petitioner and some 96 of them belonging to different communities filed a complaint to the Collector on 21st February 2003 pointing out that the petitioner and his family members are indulging into various mal practices including misbehaving with the consumers. Various incidents like assault etc. are also pointed out in that context. It appears that in view of these complaints although the licence was initially transferred to the name of the petitioner, the order

passed by the Additional Collector in that behalf was challenged to the Deputy Commissioner and the Deputy Commissioner vide the order passed on 17th November 2003, cancelled the licence issued to the petitioner. Various instances of mal practices are specifically referred and which are on the basis of the complaints and the report of the Tahsildar.

4. It is this order which was challenged to the Minister. The Minister granted stay during the pendency of the proceeding before him but after going through the records, came to the conclusion that the decision of the Commissioner is a proper one and, therefore, dismissed the revision. It is this order in Revision which is under challenge in the present petition. During the pendency of this petition, an interim order has been granted and that is how

the petitioner continues to operate the licence.

5. We have heard Mr.Bhosale in support of this petition. His submission is that the complaints are motivated and there is no substance therein. As against that, Mr.Joshi appearing for respondent Nos.4 and 5 has referred to the complaints made by the 96 villagers and the report by the Tahsildar. These are all matters of arriving at a finding of fact. The Revenue Commissioner obtained the report of the Tahsildar and having found merit in those complaints, has arrived at his decision. The Minister has also declined to interfere because it is essentially a finding of fact. These are not aspects on which the Court in writ jurisdiction can arrive at a different conclusion unless it is perverse. Besides it is a matter

concerning a licence and, therefore, if there are grievances and complaints, the authorities concerned are within their powers to cancel the licence. It is nobody's right that he can continue to enjoy the licence even if there are complaints. Since this is a matter of licence, the Government has discretionary powers. In the facts of the present case, the officers of the State have gone through the complaints and the Commissioner found that there is a substance in the grievances made against the petitioner. In our view, the Commissioner and the Minister cannot be faulted for the decision which they have arrived at. Petition dismissed. Interim order stands vacated.

6. Mr.Bhosale requests for stay of this order. Mr.Joshi opposes the request. Inasmuch as

the stay granted by this Court is running for quite some time, it will continue for a further period of eight weeks.

(H.L.GOKHALE, J.)

(J.H.BHATIA, J.)